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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/713,344

11/14/2003

Daniel J. Pusiol

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EXAMINER

GAKH, YELENA G

ART UNIT

PAPER NUMBER

1743

MAIL DATE

DELIVERY MODE

09/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/713,344	Applicant(s) PUSIOL, DANIEL J.	
	Examiner Yelena G. Gakh, Ph.D.	Art Unit 1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on call from 08/27/07.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-94 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The present Office action is in a response to the call from 08/27/07 of the Applicant's representative, Douglas J. Bucklin, who indicated that, first, there was a preliminary amendment to the claims, filed on 11/14/03, which resolved the issue with claims 91-94 and which the examiner acknowledges in the present Office action; and, second, as it appears, the Applicant received the wrong version of the restriction requirement, which was submitted by the examiner by mistake. Therefore, the examiner submits the correct version of the restriction requirements and resets the time period for reply.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 1-16, drawn to a method for analysis of compounds, classified in class 436, subclass 173.
 - II. Claims 17-26, drawn to a method for analysis of compounds, classified in class 436, subclass 173.
 - III. Claims 27-55, drawn to a sensor element, classified in class 324, subclass 307.
 - IV. Claims 56-69, drawn to a sensor element, classified in class 324, subclass 314.
 - V. Claims 70-86, drawn to a sensor element, classified in class 324, subclass 307.
 - VI. Claims 87-90, drawn to a sensor element, classified in class 239, subclass 229.
 - VII. Claims 91-94, drawn to a sensor element, classified in class 239, subclass 229.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and III, IV are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus recited in Group III can be used for gradient experiments utilizing different magnetic fields in MRI, and the method of Group I can be practiced with an apparatus of a different design than the one recited in Group IV, e.g. with the apparatus recited in Group III.

Inventions II and V, VI are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be

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used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus recited in Group V, which recites only two coils producing low frequency magnetic fields and shielded from the environment can be used for electromagnetic testing, rather than detecting and analysis of a compound. The method recited in Group II can be practiced by a different apparatus than the one recited in Group VI, e.g. by the apparatus recited in Group V.

Inventions I, III, IV and II, V, VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together or they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions have different designs, modes of operation and effects. While the invention of Groups I, II, IV require three oscillating magnetic fields, only one of which is quadrupolar, the inventions of Groups II, V, VI require two quadrupolar oscillating fields, which allows to detect two quadrupolar nuclei.

Inventions I-VI and VII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together or they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions have different designs, modes of operation and effects. The arrangement of Group VII comprises an external housing and a conveyer belt, with the conveyer belt passing through the sensor of Group III. However, the sensor itself does not seem to be a part of the arrangement recited in Group VII. Therefore, the arrangement of Group VII has a different design, the mode of operation, and effects from all structures and method using the structures recited in all other Groups.

3. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

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4. A telephone call was made to Robert J. Ballarini on 06/06/07 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.


Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yelena G. Gakh, Ph.D. whose telephone number is (571) 272-1257. The examiner can normally be reached on 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

08/28/2007


YELENA GAKH
PRIMARY EXAMINER